

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

FRANCO RIBEIRO and DEANNA)
 RIBERIRO, as individuals and as next friends)
 and biological parents of LUCAS RIBEIRO, an)
 infant,)

Plaintiffs,)

vs.)

BABY TREND, INC.; MARK SEDLACK,)
 MILLENIUM DEVELOPMENT CORP.;)
 INDIANA MILLS & MANUFACTURING,)
 INC.; and LERADO GROUP CO., LTD.,)
 LERADO GROUP (HOLDING) COMPANY,)
 LTD., LERADO (ZHONG SHAN))
 INDUSTRIAL CO., LTD., LERADO CHINA)
 LIMITED, LERADO H.K. LIMITED;)
 HOLMBERGS SAFETY SYSTEM HOLDING)
 AB f/k/a HOLMBERGS CHILDSAFETY AB,)
 HOLMBERGS CHILDSAFETY AB f/k/a)
 KENDRION HOLMBERGS AB d/b/a)
 HOLMBERGS, HOLMBERGS SAFETY)
 SYSTEM HOLDING AB f/k/a HOLMBERGS)
 CHILDSAFETY HOLDING AB d/b/a)
 HOLMBERGS; GNOSJÖGRUPPEN AB f/k/a)
 KENDRION AUTOMOTIVE METALS AB)
 d/b/a HOLMBERGS; HOLMBERGS,)
 HOLMBERGS SAFETY SYSTEM HOLDING)
 AB, and GNOTEC REFTELE AB)

Defendants.)

CASE NO. 8:12cv204

DEFENDANT GNOTEC REFTELE AB'S
RESPONSE TO PLAINTIFF'S MOTION
TO COMPEL

COMES NOW Defendant, Gnotec Reftele AB (“Gnotec”), and, pursuant to NeCivR 7, hereby responds to Plaintiffs’ Motion to Compel the scheduling of a jurisdictional deposition of Gnotec’s representative. It must be noted that the Court ruled upon Plaintiffs’ Motion less than 24 hours from when it was filed. As such, Gnotec respectfully requests that the Court reconsider its Order as set forth in Doc. No. 234.

Before reaching the merits of this Motion, Gnotec hereby reiterates that it is not subject to this Court’s jurisdiction. On April 29, 2015, Gnotec filed a 12(b)(2) Motion to Dismiss and supporting declarations confirming the same. Doc. No. 213-215.

On May 15, 2015, Plaintiffs' counsel filed a Motion for an Extension of Time, requesting that the Court grant them until June 29, 2015 to schedule and take a Rule 30(b)(6) deposition of Gnotec's representative. Doc. No. 221. Notably, Plaintiffs' counsel did not request or even attempt to determine the availability of Gnotec's representatives for a deposition prior to filing said Motion. Exhibit 1, Kamler Affidavit.

Three days later the Court granted said Motion (Doc. No. 224), but Plaintiffs again did not reach out to Gnotec requesting dates that its representative would be available for said deposition or advising them as to dates that they could take said deposition. Exhibit 1, Kamler Affidavit.

Gnotec's counsel reviewed Plaintiffs' Motion and the Court's Order granting Plaintiffs until June 29, 2015 to complete the deposition of a Gnotec representative. Said counsel then reached out to its client and confirmed that Gnotec's representative was available for said deposition on June 25 or 26, 2015. On May 29, 2015, Gnotec's counsel called Plaintiffs' counsel advising the same. Exhibit 1, Kamler Affidavit. It was not until this May 29, 2015 telephone conversation, initiated by Gnotec's counsel, that Plaintiffs' counsel communicated to Gnotec that they were not able to complete this deposition on June 25 or 26, 2015. Exhibit 1, Kamler Affidavit.

Plaintiff's counsel has not disclosed in its Motion or supporting Brief why they are not able to complete the deposition of Gnotec's representative on June 25 or 26, 2015. Doc. No. 231 and 232. And, they've made no representations suggesting that they've attempted to re-arrange their calendars to complete this deposition on those dates. Conversely, Gnotec and its counsel tried to re-schedule other matters on their calendars in June, but were not able to do so. Exhibit 1, Kamler Affidavit. As a result, Gnotec offered to complete the deposition sometime in July. Exhibit 1, Kamler Affidavit. Instead of moving forward with the deposition on a mutually agreed upon date in July or clearing their own calendars on June 25 or 26, Plaintiffs filed this Motion to Compel.

As is apparent from the facts recited above, Gnotec does not dispute that Plaintiffs are entitled to take the deposition of its representative related to Gnotec's claims that it is not subject to this Court's jurisdiction. Gnotec has made itself available for the same on June 25 or 26, 2015. Gnotec has further offered to complete the deposition on a mutually agreeable date in July 2015. As such, Gnotec has fully satisfied its obligation to try and resolve this discovery dispute; its conduct certainly did not necessitate the filing of this motion.

WHEREFORE, Gnotec respectfully requests that, if any party is compelled to complete the deposition of Gnotec's representative on a specific date that Plaintiffs be compelled to do so on June 25 or 26, 2015.

GNOTEC REFTELE AB, Defendant,

By: /s/ Kristina K. Kamler

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was emailed to the following on this 5th day of June, 2015:

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/s/ Kristina K. Kamler